

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

PREMIUM EXPRESS, INC.,)	
Plaintiff,)	Case No. 18 CV 2141
)	
v.)	
)	Judge Gary Feinerman
KING'S EXPRESS INC., and)	
DENNIS McCORMICK,)	
INFINITY LOGISTICS, INC.)	
Defendants.)	

**PLAINTIFF'S MOTION FOR JUDGMENT ON THE ANSWER OF THIRD
PARTY CITATION RESPONDENT AND TURNOVER OF FUNDS**

NOW COMES the Plaintiff, Premium Express, Inc., by and through its attorneys, Sullivan Hincks & Conway, and in support of Plaintiff's Motion for Judgment on the Answer of Third Party Citation Respondent, Wells Fargo Bank, N.A., and for Turnover of Funds, states as follows:

1. On July 17, 2018, Judgment was entered in this Court in favor of the Plaintiff, Premium Express, Inc. (hereinafter "Plaintiff"), and against, as relevant here, Kings Express, Inc., in the total amount of \$145,838.75. See Exhibit A [Docket 17]. Since the date of the Judgment and service of the Citation to Discover Assets, Plaintiff has been able to collect some amounts against the amounts due. There is now due, less credit and off-set, the sum of \$49,368.80 (Judgment Balance against Kings Express, Inc.).

2. A Citation to Discover Assets was served on Third Party Wells Fargo Bank, N.A. (hereinafter "Wells Fargo") on September 6, 2018, and a Notice of Citation was mailed via first class mail to Kings Express, Inc.'s registered agent, Patrick Smyth, addresses at 105 West Madison Street, Suite 901, Chicago, Illinois 60602. See Plaintiff's Affidavit of Service and Certificate of Mailing, attached hereto as Exhibit B.

3. Wells Fargo served its Answer, received on September 26, 2018, indicating that Wells Fargo is in possession of non-exempt funds belonging to Kings Express, Inc. and indicating that \$98,737.60 in a checking account was being withheld. *See* Wells Fargo's Answer, attached hereto as Exhibit C.

4. Supplementary proceedings to enforce a judgment are governed by Federal Rule of Civil Procedure 69(a) which provides that a district court is to use state procedure governing the execution of any such judgment. Fed. R. Civ. P. 69(a).

5. Section 5/2-1402 of the Illinois Code of Civil Procedure provides that when assets of a judgment debtor not exempt from the satisfaction of a judgment are discovered, a court may enter an order or judgment compelling the person cited to deliver said assets. 735 ILCS 5/2-1402.

6. As such, the Plaintiff is entitled to the non-exempt property of Kings Express, Inc., the Judgment Debtor, in full satisfaction of the Judgment Balance remaining due.

WHEREFORE, the Plaintiff, Premium Express, Inc., respectfully requests that this Court enter a Judgment on its Third Party Citation and order Third Party Citation Respondent, Wells Fargo, to turnover to Plaintiff in full satisfaction of the judgment, the property of judgment debtor, Kings Express, Inc., in the amount of \$49,368.80, and for such other relief that this Court deems just and proper.

Respectfully submitted,
Premium Express, Inc.

By: /s Matthew P. Barrette
One of Its Attorneys

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